IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/01/2003

CORAM

THE HONOURABLE MR. JUSTICE P. SATHASIVAM

W.P.No.1001 of 2003
and
W.P.M.P.No.1249 of 2003

The Great Royal Circus,
rep. by Mr.M.Pavithran,
Power Agent of
Mr.Ashok Shankar,
Partner of the Great Royal Circus,
S.I.A.A.Ground (Old Moor Market)
Park Town, Chennai - 3. .....Petitioner

-Vs-

1. Animal Welfare Board of India,
rep. by its Secretary,
13/1, Seaward Road, Valmiki Nagar,
Thiruvanmiyur, Chennai - 41.

2. Blue Cross of India,
Eldams Road, Chennai - 18. .....Respondents

Writ Petition, under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, as stated therein.

For Petitioner :: Mr. David Tyagaraj

For Respondents:: Mr. P.N.Prakash for R-1

:O R D E R

Aggrieved by the letter dated 30.12.2002 of Animal Welfare Board of India, Chennai - 600 041, the first respondent herein, refusing to issue a certificate in respect of animal (Chimpanzee) maintained by the petitioner circus for the performance, the petitioner Great Royal Circus has filed the writ petition to quash the same and to direct the first respondent to issue a certificate of performance of animals particularly Chimpanzee under the provisions of Animals (Registration) Rules 2001.

2. Mr.P.N.Prakash, learned counsel takes notice for the first

respondent.

3. According to the petitioner, after investing huge amount, he established the circus by name Great Royal Circus at Chennai. In so far as Chimpanzee is concerned, in a similar situation in Jumbo circus, the same was imported to India from Kuwait in 1987. When the said animal was seized by the customs department and lodged in the National Zoological park, New Delhi, the Supreme Court has given a direction for handing over the same to the petitioner.

4. On 16.12.2002, a letter was addressed by the first respondent to the second respondent to inspect the health conditions of Chimpanzees and its welfare in the petitioner Circus. There was no notice to the petitioner either by the first respondent or by the second respondent before inspection. The petitioner was not given any opportunity by the second respondent to inspect the animal which is in their custody by bringing their veterinary experts. The second respondent made a discreet visit to the petitioner circus without conducting any regular enquiry with experts and communicated the impugned letter dated 30.12.2002 with a direction to hand over the Chimpanzees to the said authorities. Questioning the same, the petitioner Great Circus has filed the present writ petition.

5. Heard learned counsel for the petitioner and learned counsel for the first respondent.

6. After taking me through the definition of Cruelty in Section 11 of the Prevention of Cruelty to Animals Act, 1960 and Rules thereunder and also the impugned letter of the first respondent, learned counsel for the petitioner contended that the respondents have no jurisdiction to verify the conditions of the animals particularly Chimpanzees and the present impugned order cannot be sustained. He also contended that the respondents have biased attitude towards the petitioner and without giving any opportunity to the petitioner, passed the impugned letter.

7. After going through the details furnished in the affidavit, filed in support of the writ petition, typed set of papers and relevant provisions, I am unable to accept the contentions of the learned counsel for the petitioner for the following reasons.

8. Though it is stated that the respondents have no power or authority to go into the conditions of the animals, in the light of the statutory provisions viz., Prevention of Cruelty to Animals Act, 1960 and the Rules thereunder, it cannot be disputed that it is mandatory on the Circus Company like the petitioner to obtain a certificate of Registration from the Animal Welfare Board of India, Chennai and for performing animals under Animals (Registration) Rules 2001. Accordingly, the contention that the respondents have no power cannot be accepted.

9. With regard to other contentions, it is seen that Animal Welfare Board of India received adverse report regarding the conditions of the animal in the petitioner circus, particularly Chimpanzees and the same was brought to

the notice of the petitioner. Further, on inspection by the Blue Cross of India, Chennai, the second respondent herein, it was noticed that the Chimpanzee was kept tied inside the cage with a chain with one end around its neck with a lock and the other end tied to the cage. The cage was kept inside a tent and fully covered without ventilation. The animal is excited and reacted violently by shacking the cage and started spitting. After receiving the above said adverse report from Blue Cross of India, Chennai, the first respondent by drawing the attention to the Prevention of Cruelty to Animals Act, 1960 and Rules made thereunder and the provisions of performing Animals (Registration) Rules 2001, addressed the impugned letter to the petitioner, conveying their inability to issue a certificate in respect of the performance of the animal particularly Chimpanzees.

10. Though learned counsel for the petitioner has brought to my notice the certificate issued by the concerned Doctor, health conditions of the Animals particularly Chimpanzees, in the light of the adverse report by the second respondent as narrated in paragraph 1 of the impugned letter of the first respondent, I am unable to accept the claim of the petitioner. Further, there is no substance in saying that the respondents are biased towards the petitioner.

11. In the light of what is stated above, in view of the physical conditions of the Animal particularly Chimpanzees as narrated in paragraph 1 of the impugned letter of the first respondent and in the light of the statutory provisions, I do not find any valid ground to interfere with the said factual conclusion.

12. Accordingly, the writ petition fails and the same is dismissed. Consequently, the connected W.P.M.P.No.1249 of 2003 is closed.

Index :Yes
Internet: Yes

Dpn/-

To:

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